

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING POST-TENURE REVIEW OF UNIVERSITY SYSTEM
FACULTY; AND AMENDING SECTION 20-25-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-25-301, MCA, is amended to read:

"20-25-301. Regents' powers and duties. (1) The board of regents of higher education shall serve as regents of the Montana university system; and shall use and adopt this style in all its dealings with the university system; ~~and~~. The board of regents:

(1)(a) must have general control and supervision of the units of the Montana university system, which is considered for all purposes one university;

(2)(b) shall adopt rules for its own government that are consistent with the constitution and the laws of the state and that are proper and necessary for the execution of the powers and duties conferred upon it by law;

(3)(c) shall provide, subject to the laws of the state, rules for the government of the system;

(4)(d) shall grant diplomas and degrees to the graduates of the system upon the recommendation of the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the recommendation of the faculty of the institutions;

(5)(e) shall keep a record of its proceedings;

(6)(f) must have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the system;

(7)(g) must receive from the board of land commissioners, from other boards or persons, or from the government of the United States all funds, income, and other property that the system may be entitled to and use and appropriate the property for the specific purpose of the grant or donation;

(8)(h) must have general control of all receipts and disbursements of the system;

(9)(i) shall appoint a president or chancellor and faculty for each of the institutions of the system, appoint any other necessary officers, agents, and employees, and fix their compensation;

(10)(j) shall confer upon the executive board of each of the units of the system authority that may be

1 considered expedient relating to immediate control and management, other than authority relating to financial
2 matters or the selection of the teachers, employees, and faculty;

3 ~~(11)~~(k) shall confer, at the regents' discretion, upon the president and faculty of each of the units of the
4 system for the best interest of the unit authority relating to the immediate control and management, other than
5 financial, and the selection of teachers and employees;

6 ~~(12)~~(l) shall prevent unnecessary duplication of courses at the units of the system;

7 ~~(13)~~(m) shall appoint a certified professional geologist or registered mining engineer as the director of
8 the Montana state bureau of mines and geology, who is the state geologist, and appoint any other necessary
9 assistants and employees and fix their compensation;

10 ~~(14)~~(n) shall supervise and control the agricultural experiment station, along with any executive or
11 subordinate board or authority that may be appointed by the governor with the advice and consent of the regents;

12 ~~(15)~~(o) shall adopt a seal bearing on its face the words "Montana university system", which must be
13 affixed to all diplomas and all other papers, instruments, or documents that may require it;

14 ~~(16)~~(p) shall ensure an adequate level of security for data, as defined in 2-15-102, within the ~~state~~
15 Montana university system. In carrying out this responsibility, the board of regents shall, at a minimum, address
16 the responsibilities prescribed in 2-15-114.

17 ~~(17)~~(q) shall offer courses in vocational-technical education of a type and in a manner considered
18 necessary or practical by the regents.

19 (2) (a) In addition to the duties listed in subsection (1), the board of regents shall direct the president of
20 each institution of the university system to adopt rules and procedures providing for a periodic post-tenure
21 performance evaluation process for all tenured faculty. The president may design the rules and procedures to
22 fit the institution's particular educational mission, traditions, and resources and the circumstances relevant to its
23 character, role, and scope, in addition to any other factors the president determines relevant. The president shall
24 seek advice and comment from the faculty of the institution on the post-tenure performance evaluation process
25 before adopting any rules and procedures. The president shall give the utmost consideration to the advice and
26 comment of the faculty on the post-tenure performance evaluation of faculty members.

27 (b) In addition to any other provisions adopted by the president, the rules and procedures related to the
28 post-tenure performance evaluation must, at a minimum, include provisions that:

29 (i) each faculty member tenured at the institution must be subject to a comprehensive performance
30 evaluation conducted no more often than once every year and no less often than once every 6 years after the

1 date the faculty member was granted tenure;

2 (ii) the performance evaluation must be based on the professional responsibilities of the faculty member
3 in the areas of teaching, research, advising students, and administrative, community, and professional service
4 and must include a peer review;

5 (iii) the performance evaluation must be directed toward the professional development of the faculty
6 member;

7 (iv) the performance evaluation must incorporate commonly accepted due process rights, including notice
8 of the manner and scope of the evaluation, the opportunity to provide supporting documentation, and before any
9 disciplinary action is brought on the basis of the evaluation, notice of specific deficiencies and an opportunity for
10 a hearing;

11 (v) if the performance evaluation finds that incompetency, continuing or repeated substantial neglect of
12 professional duties, or other adequate cause is present, the faculty member is subject to probation and
13 reevaluation, loss of tenure, or other appropriate disciplinary action, including termination. The president shall
14 give specific written reasons for any decision.

15 (c) A faculty member who is subject to termination on the basis of the performance evaluation must be
16 given the opportunity of referring the matter to a nonbinding alternative dispute resolution procedure. If both
17 parties agree, another type of alternative dispute resolution may be chosen.

18 (d) The president may not waive the performance evaluation process for any faculty member who has
19 been granted tenure.

20 (e) Each president shall file a copy of the rules adopted pursuant to this section and any subsequent
21 amendments to the rules with the board of regents on or before September 1 of each year. The board of regents
22 shall in turn file with the legislature, on or before September 30 of each year, a report on the post-tenure
23 performance evaluation process at each institution of the university system."

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